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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,191	06/09/2006	Daniel Audet	047976 00065	4005
34802 7590 10/21/2008				
HOLLAND & KNIGHT LLP				
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TAMPA, FL 33601-1288				
EXAMINER				
BELL, BRUCE F				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
10/21/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,191

Applicant(s)

AUDET ET AL.

Examiner

Bruce F. Bell

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/86)
Paper No(s)/Mail Date 8/24/07
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 10 and 14 are vague and indefinite with respect to the recitations of the electrical conductivity before baking and after baking. It is unclear as to whether the instant system or method measure before baking and then remove the anode and bake it and put it back into the system to retest or whether this is a continual system and process where the electrical conductivity is checked before baking and then is baked during movement through the system and the electrical conductivity is checked again after baking. It appears that the anode must be removed, baked and then rechecked from the instant claims as set forth and therefore the sensing device and the means for calculating would not be used at the same time. Therefore, the system as set forth does not require that both features would be used at the same time, absent evidence to the contrary.

Claims 2-9, 11-13, 15-17 are dependent on there respective independent claims and therefore have the same deficiencies.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mallory (5552704) in combination with Hash et al (6268723).

Mallory disclose an electromagnetic field emitting unit, means for sensing the variation of the electromagnetic field received by the at least on receiving coil as the anode moves within the receiving coil and means for calculating a value indicative of the electrical conductivity of the anode using the sensed value and a value obtained using reference anodes. See col. 4, line 21 to col. 5, line 15 and col. 8, line 48 to col. 10, line 47 and figures 1 and 3. The use of a computer and memory to calculate a value indicative of the electrical conductivity and recording the value are shown at col. 8, lines 48-67.

Mallory does not teach the used of a carriage unit to move the anode, nor an AC generator which operates between 100 and 10000 Hz, an ammeter and calculating a value indicative of a maximum variation in signal.

Hash et al disclose the use of a carriage at col. 5, lines 8-21 and figure 2. Hash et al further discloses the components set forth in claims 2-4, 6, 7, 9 and 10 wherein a coil position and coil properties are shown at col. 3, line 50 to col. 4, line 30.

The subject matter as a whole would have been within the ability of the skilled artisan at the time the instant invention was made because even though the prior art of Mallory does not disclose a carriage or the AC generator having the specific characteristics for calculating the maximum variation in signal, the prior art of Hash et al shows that it is conventional in the art to use such a carriage in these kinds of electromagnetic fields for movement through an emitter and receiving coils and further because it is well known in the art of calculating electrical conductivity using electromagnetic field to use an AC generator that operate within the parameters set forth in the instant claims using an ammeter. Applicant appears to believe that the recitation in the claims with respect to what state the anode is in (baked or unbaked), that this attribute changes the overall structure of the instant system. The examiner does not believe this lends anything to the system unless, the baking of the anode is done internal to the system, which is not stated in the instant specification or in the instant claims. Therefore, it appears that the prior art of Mallory in combination with Hash et al renders the applicants instant invention as obvious for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce F. Bell whose telephone number is 571-272-1296. The examiner can normally be reached on Monday-Friday 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BFB
October 17, 2008

/Bruce F. Bell/
Primary Examiner, Art Unit 1795